

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Kirk R. Meyer**  
Petitioner-Appellant,

v.

**Sioux City Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 12-107-0051**  
**Parcel No. 8948-14-382-003**

On September 20, 2013, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Kirk Meyer was self-represented. City Attorney Jack Faith represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Kirk Meyer is the owner of property located at 918 Pacquette Avenue, Sioux City, Iowa. The real estate was classified residential on the January 1, 2012, assessment and valued at \$97,200, representing \$14,100 in land value and \$83,100 in improvement value. This was a change in value from the previous year's assessment.

Meyer protested the assessment to the Sioux City Board of Review on the grounds that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1) and that the property was assessed for more than authorized by law under section 441.37(1)(a)(2). He claimed the correct value was \$80,100. Meyer also asserted there was an error in the assessment under section 441.37(1)(a)(4), but we note this claim essentially reasserted a claim of inequity. Lastly, he claimed there was a downward change in value since the last assessment

under sections 441.37(1)(b) and 441.35(2). When a property has been reassessed, a challenge based on downward change in value is akin to a market value claim under section 441.37(1)(a)(2). *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006) (unpublished).

The Board of Review denied the protest.

Meyer then appealed to this Board reasserting his claims. He now contends the property's fair market value is \$77,200, representing \$10,000 in land value, and \$67,200 in improvement value.

According to the property record card, Meyer's property is a one-story, frame home built in 1956. It has 1000 square feet of above-grade living area and a full basement with 900 square feet of finish. Additionally, it has a 120 square-foot, wood deck and a 480 square-foot, detached garage built in 1957. According the property record card, the dwelling is of average quality (grade 4) and is in above-normal condition. The site is 0.171 acres.

Meyer purchased the subject property in May 2011 for \$100,000. Meyer believes he paid too much for it but bought it "because his wife wanted it." When Meyer purchased the property it was assessed for \$80,700. Less than a year later the assessment was increased to \$97,200. Meyer believes this increase was too much for that time period.

Meyer stated that one day after he closed on the property, he learned flood waters would be coming downstream on the Missouri River as the federal government was opening the flood gates at the reservoir in Yankton, South Dakota. Because the water level was too high, he could not move in until September. He stated that he had to "plug the drains" in the property and that the water eventually reached his front porch.

Meyer noted that another property near the subject, 2455 Boies Street, was for sale for \$96,800 when he purchased the subject property. According to Meyer, it sold about a year later for \$75,000, and the assessment was lowered to that amount. He stated this property is a corner, double lot with a nicer home that has more square-footage. Meyer did not provide any other information about this

property. Therefore, it is unknown if it is a similar property for either equity or market value comparison.

Meyer provided a map and identified eleven properties on his street, but did not state whether he considers these properties comparable for an equity or market value analysis. These properties range in assessed value from \$31,400 to \$98,600. Of the eleven properties, he pointed out three in particular that he believed were similar to his.

The following chart is a summary from those three property record cards.

Address	2012 AV	2011 AV	Lot size	Gross Living Area (GLA)	Fin. Bsmt Area	Year Built/ Condition
Subject	\$97,200	\$80,700	.171 A	1000	900	1956 AboveNml
920 Pacquette	\$31,400	\$31,400	.125 A	476	0	1950 Nml
910 Pacquette	\$68,700	\$68,700	.205 A	1085	0	1928 VG
915 Pacquette	\$98,600	\$98,600	.251 A	968	0	1938 VG

We note there are a number of differences in these properties such as the GLA, lot size, and condition. Also, the subject property is the only one with a finished basement. None of these properties have sold and, therefore, cannot be used to develop a market value opinion. Without a sales price or an established market value for each comparable, an equity analysis cannot be developed. Further, Meyer did not allege his property was assessed differently, or that an assessing method was not uniformly applied to his property as compared to other like properties. Ultimately, Meyer has provided insufficient evidence to support claims of inequity or over-assessment.

Sioux City Assessor Alan Jordan testified for the Board of Review. He explained part of the increase in the subject property's assessment in 2012 was learning the property had 900 square feet of basement finish. This was not accounted for in the 2011 assessment, and only became apparent after the property was sold.

Jordan also testified that he had viewed all of the homes that Meyer had submitted as comparisons. He noted the total finished area of the subject property is 1900 square feet, which is much more than the finished area of the properties Meyer identified.

Exhibit C, an affidavit from Jordan, explained the process his office goes through to determine the land and improvement value, as well as the total assessment, of a property. The affidavit explains that grade, quality, and square-foot size of improvements, applied depreciation and other pertinent attributes of the parcel are taken into consideration to reach the assessment value.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If

sales are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

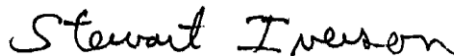
*Id.* at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

In this case, to prevail on an equity claim, Meyer would have had to compare prior year sales prices (2011) to the current year (2012) assessments of comparable properties. While Meyer provided eleven properties for comparison, the evidence did not include those properties’ fair market values, which are required to complete an equity analysis. Furthermore, Meyer did not assert different assessing methods were used to value his property. He failed to prove inequitable assessment under either the *Maxwell* or *Eagle Foods* tests.

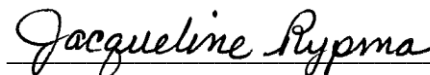
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Meyers did not provide any evidence of the fair market value of his property as of January 1, 2012.

THE APPEAL BOARD ORDERS the assessment of Kirk R. Meyer's property located at 918 Pacquette Avenue, Sioux City, Iowa, , as set by the Sioux City Board of Review is affirmed.

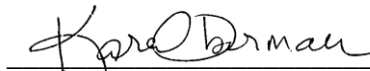
Dated this 17th day of October, 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

Copies to:

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APPELLANT

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ATTORNEY FOR APPELLEE

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on October 17, 2013.

By: ☒ U.S. Mail ☐ FAX  
☐ Hand Delivered ☐ Overnight Courier  
☐ Certified Mail ☐ Other



Signature \_\_\_\_\_